

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

POLARIS POWERLED TECHNOLOGIES, §  
LLC, §

Plaintiff, §

v. §

SAMSUNG ELECTRONICS AMERICA, §  
INC., SAMSUNG ELECTRONICS CO., §  
LTD., and SAMSUNG DISPLAY CO., §  
LTD., §

Defendants.

Civil Action No. 2:17-cv-00715-JRG

**JURY TRIAL DEMANDED**

**JOINT NOTICE OF THE PARTIES' AGREEMENTS  
REGARDING MOTIONS IN LIMINE AND WITHDRAWAL OF CERTAIN SECTIONS  
OF DAUBERT AND MOTIONS TO STRIKE**

Pursuant to the Court's Amended Docket Control Order (ECF 308), the parties have met and conferred on May 24 and 28, 2019 and have reached agreement on certain of the parties' motions *in limine* and have significantly reduced the quantity of objections to proposed trial exhibits. Defendants have also withdrawn certain invalidity defenses, mooted defendants' motion to exclude (Dkt. No. 202) and mooted two sections of plaintiff's Daubert and Motion to Strike (Dkt. No. 201) as set forth below.

The parties hereby file this Joint Notice to report the following to the Court in advance of the June 3, 2019 pretrial conference:

**Plaintiff and Defendant Daubert and Motions to Strike**

1. Defendants' motion to exclude certain opinions of Dr. Roberts (Dkt. 202) is *moot and withdrawn* based on Samsung withdrawing one of its invalidity defenses.
2. Sections E and F of Plaintiff's motion to exclude and strike certain opinions of Dr. Hobbs (Dkt. 201) are now *moot and withdrawn* based on Samsung withdrawing one of its invalidity defenses.

**Plaintiff's Motions *In Limine***

1. **Plaintiff's MIL 5.** Plaintiff Polaris's disputed motion *in limine* 5 is *withdrawn*.
2. **Plaintiff's MIL 6.** Plaintiff's motion *in limine* number 6 is *agreed*. Specifically, Samsung agrees that it will not contend that the accused products lack the following claim limitation in claim 1 of the '117 patent: "a light sensor configured to sense ambient light and to output a sensing signal indicative of the ambient light level." This claim limitation is admitted by Samsung for all accused products.
3. **Plaintiff's MIL 7.** Plaintiff's motion *in limine* number 7 is *agreed*. Samsung agrees that it will not inform the jury as to whether Polaris previously may have asserted that Samsung

infringes patent claims of the '117 patent that were or may be dropped from the case. If Polaris drops its claim of infringement of additional patent claims during trial, Samsung reserves the right, however, to cross examine Polaris' infringement expert witness as to his opinions regarding such claims, but without informing the jury whether such claims were previously asserted and/or dropped from the case.

4. **Plaintiff's MIL 8.** Plaintiff Polaris's disputed motion *in limine* 8 is *withdrawn*.
5. **Plaintiff's MIL 12.** Plaintiff Polaris's disputed motion *in limine* 12 is *agreed*, and specifically Samsung will not offer to publish to the jury the deposition testimony of Samsung's own witnesses unless Samsung establishes and the Court orders that any such witness is unavailable. This MIL 12 does not prevent the parties from publishing counter-designated deposition testimony that are prior consistent statements if permitted under Fed. R. Evid. 801(d)(1)(B).
6. **Plaintiff's MIL 16.** Plaintiff Polaris's disputed motion *in limine* 16 is *agreed*, and Samsung will not attempt to inform the jury that Polaris' counsel allegedly admitted that Samsung's Galaxy S2, Samsung's J phones or Samsung's Tab A do not infringe the '117 patent.

#### **Defendants' Motions In Limine**

1. **Defendants' MIL 1.** Defendants' motion *in limine* 1 is *withdrawn*.
2. **Defendants' MIL 4.** Defendants' motion *in limine* 4 is *moot*. As Samsung agrees that it will not contend that the accused products lack the claim limitation "a light sensor configured to sense ambient light and to output a sensing signal indicative of the ambient light," (as set forth in Plaintiff's MIL 6), Polaris will not offer evidence of infringement under the doctrine of equivalents for this or any other claim limitation.
3. **Defendants' MIL 6.** Defendants' motion *in limine* 6 is *agreed*, however with respect to

defendants' MIL 6, the parties agree that raising an absence of proof, including documentation to support such proof, is not precluded.

4. **Defendants' MIL 8.** Defendants' motion *in limine* 8 is *agreed in part*. The parties will not analogize the burdens of proof applicable to the issues in this case to the standard applied in family law cases to terminate parental rights or withdrawal of life support.
5. **Defendants' MIL 10.** Defendants' motion *in limine* 10 is *moot*. The parties have agreed to plaintiff's *undisputed* MIL 2 with respect to commenting on a parties' senior executives not attending trial as a corporate representative of the party. The parties further agree not to comment on the failure to present live testimony, as opposed to deposition testimony, from any Samsung witness residing in Korea.
6. **Defendants' MIL 12.** Defendants' motion *in limine* 12 is *agreed in part*. The parties agree to not make references denigrating, disparaging, touting, or exalting unnecessarily on the nationality or place of residence of a party or witness, but comment as to the nationality or residency of the parties can be stated in opening and *voire dire*.
7. **Defendants' MIL 13.** Defendants' motion *in limine* 13 is *agreed*. The parties agree not to reference U.S. Patent No. 6,841,947 (or any related patents) at trial.

Dated: May 29, 2019

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, on this 29th day of May 2019.

By: /s/ Deron R. Dacus  
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